

MINUTES OF THE OPEN SESSION OF THE RHODE ISLAND ETHICS COMMISSION

September 12, 2006

The Rhode Island Ethics Commission held its 16th meeting of 2006 at 9:00 a.m. at the Rhode Island Ethics Commission conference room, located at 40 Fountain Street, 8th Floor, Providence, Rhode Island, on Tuesday, September 12, 2006, pursuant to the notice published at the Commission Headquarters and at the State House Library.

The following Commissioners were present:

James Lynch, Sr., Chair James V. Murray

Barbara Binder, Vice Chair Ross Cheit

George E. Weavill, Jr., Secretary Frederick K. Butler

James C. Segovis

Also present were Kathleen Managhan, Commission Legal Counsel; Kent A. Willever, Commission Executive Director; Jason M. Gramitt, Staff Attorney/Education Coordinator; Staff Attorney Dianne Leyden and Commission Investigators Steven T. Cross, Peter J. Mancini, and Michael Douglas.

At approximately 9:10 a.m., the Chair opened the meeting.

The first order of business was to approve the minutes of the Open Session held on August 22, 2006. Upon motion made by Commissioner Murray and duly seconded by Commissioner Cheit, it was unanimously

VOTED: To approve the minutes of the Open Session held on August 22, 2006.

ABSTENTIONS: James C. Segovis and Frederick K. Butler.

The next order of business was advisory opinions. The advisory opinions were based on draft advisory opinions prepared by the Commission Staff for review by the Commission and were scheduled as items on the Open Session Agenda for this date.

This first advisory opinion was that of Deborah A. Smith, the Director of Municipal and External Affairs in the Office of the Governor. The petitioner was present. Commissioner Butler noted that he has known the petitioner for many years, but that there is no business association between them and he is able to participate fairly and objectively in the Commission's consideration of the matter. Staff Attorney Gramitt presented the Commission Staff recommendation. Upon motion made by Commissioner Segovis and duly seconded by Commissioner Weavill, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to Deborah A. Smith, the Director of Municipal and External Affairs in the Office of the Governor.

The next advisory opinion was that of Frederic C. Crowley, an unopposed candidate for the Cumberland School Committee. The petitioner was not present. Staff Attorney Gramitt presented the Commission Staff recommendation. Upon questions from Commissioners Butler and Weavill, Staff Attorney Gramitt clarified that notwithstanding common practice or older advisory opinions from the Commission, this opinion going forward would prohibit a public board member from participating in a vote for him or herself to become an officer if such election would impart additional remuneration. Commissioner Lynch noted that the petitioner could not waive his spouse's receipt of the stipend, and that the spouse must offer her own waiver. Commissioner Segovis questioned whether spouses serving on the same committee, particularly where one spouse is Chair, might create the appearance of unfairness or bias. Commissioner Cheit commented that it is up to the voters in Cumberland to determine whether they wish to have a husband and wife serve together on the school Committee.

Upon motion made by Commissioner Cheit, and duly seconded by Commissioner Binder, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to Frederic C.

Crowley, an unopposed candidate for the Cumberland School Committee.

The next advisory opinion was that of Steven J. Catanzaro, Chief of the North Providence Fire Department. Staff Attorney Leyden presented the Commission Staff recommendation. The petitioner was not present. Staff Attorney Leyden noted that she has received further correspondence from the petitioner representing that he intends to retire from the Department in March 2007. Commissioner Murray obtained clarification from Staff Attorney Leyden that the petitioner represents that going forward he will not participate in the hiring of any candidates, not just his son. Commissioner Lynch expressed that it would be impossible for the Chief to not have some sort of influence in hiring decisions, intentional or not, even if he recused from hiring. Commissioner Segovis stated that the Chief's imminent retirement is a key factor supporting the result of the draft opinion.

Upon motion made by Commissioner Binder and duly seconded by Commissioner Segovis, it was unanimously

VOTED: To issue an advisory opinion, attached hereto, to Steven J. Catanzaro, Chief of the North Providence Fire Department.

The next advisory opinion was that of Richard M. Lucia, P.E., a Principal Civil Engineer employed by the Coastal Resources

Management Council. Staff Attorney Leyden presented the Commission Staff recommendation. The petitioner was not present. Commissioner Segovis noted that the draft opinion stated that the petitioner would not accept private employment from developers who "regularly conduct" business with the petitioner in his public capacity, and asked what the term "regularly conduct" means. Commissioner Binder suggested that the word "regularly" be taken out of the draft opinion. Commissioner Weavill suggested that the opinion should be expanded to prohibit work not only with "developers," but also with the professional engineers of engineering firms that he interacts with at CRMC. Staff Attorney Leyden indicated that she would make the suggested changes and notify the petitioner. If the petitioner has any issues with the changes, the matter will be scheduled for further hearings.

Upon motion made by Commissioner Segovis, and duly seconded by Commissioner Butler, it was unanimously

VOTED: To issue an advisory opinion, attached hereto and as amended, to Richard M. Lucia, P.E., a Principal Civil Engineer employed by the Coastal Resources Management Council.

Upon motion made by Commissioner Segovis and duly seconded by Commissioner Butler, it was unanimously

VOTED: To go into Executive Session pursuant to R.I. Gen. Laws §

42-46-5(a)(4), to wit:

a.) Motion to approve minutes of Executive Session held on August 22, 2006.

**b.) In re: Susan E. McClain,
Complaint No. NF2006-5**

**c.) In re: Richard J. Barrows,
Complaint No. NF2006-8**

**d.) In re: Ronnie Sposato,
Complaint No. NF2006-9**

**e.) In re: Frederick Cavallaro,
Complaint No. NF2006-12**

At approximately 10:40 a.m., the Commission returned to Open Session. Upon motion made by Commissioner Segovis and duly seconded by Commissioner Binder, it was unanimously

VOTED: To seal the minutes of the Executive Session held on September 12, 2006.

The Chair reported that in Executive Session the Commission voted

to take the following actions: (1) approve the Minutes of the Executive Session held on August 22, 2006; (2) in Complaint No. NF2006-8, find that there is probable cause to believe that Richard J. Barrows violated R.I. Gen. Laws § 36-14-16; (3) continue Complaint No. NF2006-9 to the next regular Commission Meeting in October; (4) in Complaint No. NF2006-5, find that there is probable cause to believe that Susan E. McClain violated R.I. Gen. Laws § 36-14-16; (5) in Complaint No. NF2006-12, find that there is probable cause to believe that Frederick Cavallaro violated R.I. Gen. Laws § 36-14-16.

The next order of business was the Director's Report. Executive Director Willever reported that there are five pending advisory opinion requests and nine complaints pending, four of which are financial disclosure non-filing complaints relating to the 2005 forms. The Director clarified that the staff files complaints against all non-filers in particular classes, such as all non-filing town council members in the entire state. This practice avoids any appearance of favoritism or selective enforcement from municipality to municipality. He noted that as our compliance rates rise each year we are initiating complaints against lower level officials. For instance, this is the first year we have initiated complaints against zoning board members. Commissioner Segovis queried whether the same fine schedule was suitable for all classes of public officials, and there was some discussion among the Commissioners.

The next order of business was Election of Officers. Commissioner

Lynch stated that there are three positions at issue, Chair, Vice-Chair and Secretary, and stated that he would entertain any nominations.

Upon a nomination by Commissioner Weavill which was duly seconded by Commissioner Segovis, and there being no other nominations, it was unanimously

VOTED: To re-elect James Lynch, Sr. to the position of Chair.

ABSTENTIONS: James Lynch, Sr.

Upon a nomination by Commissioner Cheit which was duly seconded by Commissioner Butler, and there being no other nominations, it was unanimously

VOTED: To re-elect Barbara Binder to the position of Vice-Chair.

ABSENTIONS: Barbara Binder.

Upon a nomination by Commissioner Binder which was duly seconded by Commissioner Cheit, and there being no other nominations, it was unanimously

VOTED: To re-elect George E. Weavill, Jr. to the position of Secretary.

ABSTENTIONS: George E. Weavill, Jr.

The next order of business was New Business. Executive Director Willever explained the procedure for public comment at the next Commission meeting concerning amendment to the Code of Ethics regulations.

Upon motion made by Commissioner Segovis and duly seconded by Commissioner Butler, it was unanimously

VOTED: To adjourn the meeting.

Respectfully submitted,

George E. Weavill, Jr.

Secretary